

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Universal Service Contribution Methodology)	WC Docket No. 06-122
)	
A National Broadband Plan For Our Future)	GN Docket No. 09-51

REPLY COMMENTS OF COMPTel

As would be expected in a rulemaking of this size and importance, the Commission has received a variety of different opinions on how best to tackle the issue of contribution reform. There is near universal agreement, however, on three fundamental points: (1) the need to implement changes that will remove the market distortions that plague the current contribution system; (2) the need to broaden the contribution base to include services and technologies that people in the twenty-first century use to communicate; and (3) the need to act quickly. In voting to adopt the Further Notice of Proposed Rulemaking in this proceeding, Commissioner McDowell echoed these sentiments: “We must tame this wild automatic tax increase as soon as possible;” “[c]ontroversy . . . should not deter us from lowering the tax rate while broadening the [contribution] base;” and contribution reform is “a decision we should make no later than this fall.”¹

There is general consensus that the current revenue-based contribution system needs reform but also a preference for retaining a revenue based system in a substantially modified form over moving to a connections-based or numbers-based contribution system at this time. Those commenters that advocate switching to a connections-based or hybrid

¹ Statement of Commissioner Robert M. McDowell *re: Universal Service Contribution Methodology*, WC Docket No. 06-122 (Apr. 27, 2012).

connections/numbers-based system have failed to provide sufficient detail with respect to how to define and assess connections.² Those proposing a telephone numbers-based system have failed to justify the fairness in exempting from contribution services that do not use or are not assigned North American Numbering Plan numbers.³ Unless and until the Commission has a more developed record on the impact that a switch to a numbers or connections-based contribution methodology will have on both providers and end users, the Commission should continue to assess contributions on a revenues basis rather than delay reform until it assembles more data. To the extent that the Commission expands the contribution base, reduces the assessment factor and implements the reforms proposed by COMPTTEL and other commenters, the deficiencies in the current system will be substantially eliminated.

Any reforms that the Commission institutes in the way that universal service contributions are assessed and collected must simplify and clarify the process with bright line rules where appropriate. Telecommunications providers are entitled to know with particularity what services and/or facilities are subject to assessment and how the assessments should be calculated. Only when such information is made available to all providers will the Commission be able to create an environment where providers can be expected to contribute to the fund on an equitable and non-discriminatory basis. As the Commission is well aware, there is a critical need to minimize the potential for inconsistencies in the interpretation of Instructions to the Form 499 that lead to discrepancies in whether and/or how providers contribute to the universal service fund on particular services. Such discrepancies produce unfair competitive advantages for those

² See *e.g.*, Comments of Vonage at 2; Comments of ITTA at 19-25; Comments of Google at 5-9.

³ Comments of Ad Hoc Telecommunications Users Committee at 9-22; Comments of Comcast at 24-28.

providers who do not contribute over those providers who do contribute and pass the universal service charges through to their end users.

The end users who ultimately foot the bill for universal service are entitled to know with particularity what they are paying for universal service. COMPTEL⁴ and the vast majority of other commenters⁵ demonstrated persuasively that in the interest of transparency and full customer disclosure, the Commission should leave undisturbed its rule permitting carriers to recover their universal service contributions from their customers through a separate line item charge on the bill. Including the universal service contribution in the advertised price of a service would provide customers far less information than they receive today in bills that separately list the federal universal service charge along with all of the other state and federal add-ons to the cost of receiving telecommunications services.

The Commission should reject the suggestion of TracFone and NASUCA that carriers should be prohibited from recovering universal service contributions through line item assessments.⁶ TracFone contends that because it does not send its customers bills, it has no opportunity to recover its universal service contributions through a line item surcharge and for that reason it is at a competitive disadvantage to carriers that bill their customers on a monthly

⁴ COMPTEL's Comments at 37-41.

⁵ See e.g., Comments of Verizon at 49-53; Comments of the California Public Service Commission at 16; Comments of the District of Columbia Public Service Commission at 5; Comments of Peerless Networks at 14; Comments of AARP at 51-53; Comments of Megapath at 3-4; Comments of Earthlink, Integra and tw telecom at 21; Comments of Cincinnati Bell at 23-24; Comments of the National Cable and Telecommunications Association at 3, 6; Comments of T-Mobile USA at 12; Comments of Fiber Provider Coalition at 18-19; Comments of the American Cable Association at 12-13; Comments of United States Cellular Corporation at 46; Comments of CTIA at 28-29; Comments of Level 3 Communications.

⁶ Comments of TracFone at 6-8; Comments of NASUCA at 22.

basis. Nothing in the Commission's rules prohibits TracFone from passing its universal service contributions through to its customers. As a result, its allegations of competitive disadvantage have no merit. The Commission should also summarily dispose of NASUCA's allegation that line item surcharges for universal service make price comparisons among competing services difficult. NASUCA is well aware that the federal universal service charge line item is only one of many line items on today's telephone/cable bills that are designed to recover the amounts that providers must pay to state, local and federal taxing authorities, 911 authorities, right of way authorities and state universal service funds, to name just a few. Contrary to NASUCA's suggestion, if the Commission were to prohibit carriers from recovering their federal universal service contributions through line item assessments, price comparisons for competing services would not be made any easier because all of the other separate line items charges would remain on customers' bills.

Providers that separately list universal service charges on customer bills inform customers up front what they pay for universal service each month in the most transparent way possible. Having this information readily available is far more advantageous to the customer than having it buried in the quoted price of the service subject to universal service obligations. If the Commission truly wants to promote transparency, it should not restrict the rights of carriers to inform their customers in the simplest and plainest way possible what they are paying for universal service.

In addition to limiting the uncontrolled growth in the assessment factor, COMPTTEL agrees with those commenters that advocate limiting the volatility of the factor by making

changes to the factor only once per year.⁷ Modifying the factor on an annual instead of a quarterly basis would be more economically efficient and reasonable and would reduce the expenses carriers have to incur each time they have to adjust their billing and other administrative processes to reflect a new assessment factor.

Conclusion

For the foregoing reasons and those stated in COMPTEL's Comments, the Commission should adopt reforms to the universal service contribution methodology with all due speed. At the very least, the reforms must broaden the contribution base, reduce the assessment factor and implement bright line rules that will give all providers clear and unambiguous notice of their contribution obligations.

Respectfully submitted,

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⁷ See e.g., Comments of Intercall, Inc. at 11-12; Comments of USTA at 11; Comments of T-Mobile, USA, Inc. at 11; Comments of the District of Columbia Public Service Commission at 6; Comments of CenturyLink at 8; Comments of CTIA at 17-18; Comments of AT&T at 43.